

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL DUANE SMITH,

Plaintiff,

Case No. 05-70467

v.

District Judge Arthur J. Tarnow  
Magistrate Judge R. Steven Whalen

CITY OF MOUNT CLEMENS,  
a Municipal Corporation, et al.,

Defendants.

---

**ORDER**

On May 17, 2005, Plaintiff filed a motion to strike Defendants' answer to complaint [Docket #13]. The motion was specifically directed at the answer filed as Docket #9.

Plaintiff's original Complaint named as Defendants the City of Mount Clemens, the Mount Clemens Police Department, and Police Officer Steven Andrews. On April 5, 2005, the Court dismissed Defendant City for failure to state a claim upon which relief could be granted. (See Docket #5). This order also dismissed the claims under 42 U.S.C. §1985. On May 9, 2005, the Court reinstated the Plaintiff's §1985 claim against Defendants Police Department and Officer Andrews (Docket #10). On February 6, 2006, the Court dismissed the Police Department as a Defendant, and amended the caption to substitute the City of Mount Clemens as the proper Defendant. Also on February 6, 2006, Defendant City filed an Amended Answer.

In light of the foregoing, Plaintiff's motion to strike [Docket #13] is moot, and is therefore DENIED.

SO ORDERED.

S/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Dated: March 6, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on March 6, 2006.

S/Gina Wilson  
Judicial Assistant